

Introduced by Senator Runner

February 18, 2010

An act to add Section 15627 to, and to repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of, the Government Code, and to add Section 20.5 to the Revenue and Taxation Code, relating to governmental organization.

LEGISLATIVE COUNSEL'S DIGEST

SB 1133, as introduced, Runner. Governmental reorganization: tax functions.

(1) Existing law provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation franchise and income taxes. The State Board of Equalization collects and administers various taxes and fees imposed under specified programs and serves as an arbiter for the resolution of tax disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board.

This bill would abolish the Franchise Tax Board, and would provide for the transfer of its powers and duties to the State Board of Equalization, effective January 1, 2012.

(2) Existing law imposes, on employers in this state, unemployment insurance taxes that are administered by the Employment Development Department. Existing law also imposes taxes on insurance companies that are administered by the Department of Insurance.

This bill would also provide for the transfer of the tax administrative functions performed by the Employment Development Department and the Department of Insurance to the State Board of Equalization, effective January 1, 2012.

(3) This bill would require the State Board of Equalization to submit a report to the Governor and the Legislature, on or before June 30, 2011, regarding the board's assumption of the duties of the Franchise Tax Board and the assumption of the tax administration functions of the Employment Development Department and the Department of Insurance, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15627 is added to the Government Code,
2 to read:

3 15627. (a) (1) The board is the successor to, and is vested with,
4 all of the duties, powers, purposes, responsibilities, and jurisdiction
5 of the Franchise Tax Board. However, the statutes and laws under
6 which the Franchise Tax Board existed and all laws prescribing
7 the duties, powers, purposes, responsibilities, and jurisdiction of
8 the Franchise Tax Board, together with all lawful rules and
9 regulations established thereunder, are expressly continued in
10 force.

11 (2) Any action to which the Franchise Tax Board is a party on
12 and before January 1, 2012, shall not be abated by operation of
13 law and shall continue in the name of the State Board of
14 Equalization, which shall be substituted for the Franchise Tax
15 Board by the court in which the action is pending. The substitution
16 of parties will not affect the rights of the parties to the action.

17 (3) "Franchise Tax Board" when used in any statute, law, rule,
18 or regulation now in force, or that may hereafter be enacted or
19 adopted, means the board.

20 (b) (1) The board is the successor to, and is vested with, all of
21 the duties, powers, purposes, responsibilities, and jurisdiction of
22 the tax administration functions currently performed by the
23 Employment Development Department and the Department of
24 Insurance. However, the statutes and laws under which the
25 administrative tax functions of the Employment Development
26 Department and the Department of Insurance exist and all laws
27 prescribing the duties, powers, purposes, responsibilities, and
28 jurisdiction of the administrative tax functions performed by the
29 Employment Development Department and the Department of

1 Insurance, together with all lawful rules and regulations established
2 thereunder, are expressly continued in force.

3 (2) Any action regarding the administration of the tax functions
4 of the Employment Development Department to which the
5 Employment Development Department is a party on and before
6 January 1, 2012, shall not be abated by operation of law and shall
7 continue in the name of the State Board of Equalization, which
8 shall be substituted for the Employment Development Department
9 by the court in which the action is pending. The substitution of
10 parties will not affect the rights of the parties to the action.

11 (3) Any action regarding the administration of the tax functions
12 of the Department of Insurance to which the Department of
13 Insurance is a party on and before January 1, 2012, shall not be
14 abated by operation of law and shall continue in the name of the
15 State Board of Equalization, which shall be substituted for the
16 Department of Insurance by the court in which the action is
17 pending. The substitution of parties will not affect the rights of the
18 parties to the action.

19 SEC. 2. Part 10 (commencing with Section 15700) of Division
20 3 of Title 2 of the Government Code is repealed.

21 SEC. 3. Section 20.5 is added to the Revenue and Taxation
22 Code, to read:

23 20.5. Any reference hereafter in this code to the “Franchise
24 Tax Board” shall be deemed a reference to the board.

25 SEC. 4. (a) The Executive Director of the State Board of
26 Equalization, with the approval of the members of the board, shall
27 organize its new responsibilities, formerly those of the Franchise
28 Tax Board, in any manner as he or she deems necessary for the
29 proper conduct of the board’s consolidated revenue collection,
30 administration, and enforcement functions.

31 (b) The Executive Director of the State Board of Equalization,
32 with the approval of the members of the board, shall organize its
33 new tax administration responsibilities, formerly administered by
34 the Employment Development Department, in any manner as he
35 or she deems necessary for the proper conduct of the board’s
36 consolidated revenue collection, administration, and enforcement
37 functions.

38 (c) The Executive Director of the State Board of Equalization,
39 with the approval of the members of the board, shall organize its
40 new tax administration responsibilities, formerly administered by

1 the Department of Insurance, in any manner as he or she deems
2 necessary for the proper conduct of the board's consolidated
3 revenue collection, administration, and enforcement functions.

4 SEC. 5. (a) The civil service staff of the Franchise Tax Board
5 shall be transferred to the State Board of Equalization in accordance
6 with Section 19050.9 of the Government Code.

7 (b) Any civil service staff of the Employment Development
8 Department, that as a result of this act is required to be transferred
9 to the State Board of Equalization, shall be transferred in
10 accordance with Section 19050.9 of the Government Code.

11 (c) Any civil service staff of the Department of Insurance, that
12 as a result of this act is required to be transferred to the State Board
13 of Equalization, shall be transferred in accordance with Section
14 19050.9 of the Government Code.

15 SEC. 6. (a) It is the intent of the Legislature in enacting this
16 act to provide a governmental organization that ensures centralized,
17 effective, efficient, and impartial tax revenue collection,
18 administration, and enforcement for the State of California.

19 (b) In order to effectuate this purpose, it is the intent of the
20 Legislature to do the following:

21 (1) Consolidate the powers and duties of the Franchise Tax
22 Board into the State Board of Equalization, and thereby streamline
23 the functions previously performed by both of those agencies.

24 (2) Consolidate the powers and duties, with respect to the
25 administrative tax functions, of the Employment Development
26 Department and the Department of Insurance into the State Board
27 of Equalization, and thereby streamline the functions previously
28 performed by all of those agencies with the functions performed
29 by the State Board of Equalization.

30 (c) It is the intent of the Legislature that this consolidation shall
31 be carried out in the least disruptive manner so as to ensure that
32 tax collections are not adversely affected.

33 (d) It is the intent of the Legislature that the consolidation shall
34 progress as expeditiously as is feasible and economical.

35 SEC. 7. On or before June 30, 2011, the State Board of
36 Equalization shall submit a report to the Governor and the
37 Legislature on the plan for, and the progress of, the board's
38 assumption of the duties of the Franchise Tax Board and the
39 board's assumption of the tax administration functions performed
40 by the Employment Development Department and the Department

1 of Insurance. The report shall include recommendations for
2 legislation that would be necessary to more effectively achieve
3 the efficiencies and purposes intended by this act and shall include,
4 but not be limited to, the following:

5 (a) (1) A strategic plan to facilitate the orderly assumption by
6 the board of all duties and responsibilities of the Franchise Tax
7 Board, including the identification of critical issues, including, but
8 not limited to, the consolidation of computer systems,
9 telecommunications, and office space.

10 (2) A strategic plan to facilitate the orderly assumption by the
11 board of all tax administration duties and responsibilities of the
12 Employment Development Department and the Department of
13 Insurance, including the identification of critical issues, including,
14 but not limited to, the consolidation of computer systems,
15 telecommunications, and office space.

16 (b) Identification of those functions performed by the Franchise
17 Tax Board and the tax administration functions performed by the
18 Employment Development Department and the Department of
19 Insurance that are readily conducive to consolidation or
20 centralization into the board, including, but not limited to,
21 administrative functions, document processing, remittance
22 cashiering, public service, collection, and physical equipment and
23 facilities.

24 (c) Identification of administrative functions that, because of
25 statutory conflicts or inconsistent administrative processes of the
26 Franchise Tax Board and the State Board of Equalization, cannot
27 be readily consolidated into the board.

28 (d) Identification of administrative functions that, because of
29 statutory conflicts or inconsistent administrative processes of the
30 Employment Development Department and the State Board of
31 Equalization, cannot be readily consolidated into the board.

32 (e) Identification of administrative functions that, because of
33 statutory conflicts or inconsistent administrative processes of the
34 Department of Insurance and the State Board of Equalization,
35 cannot be readily consolidated into the board.

36 SEC. 8. (a) No contract, lease, license, or any other agreement
37 to which the State Board of Equalization or the Franchise Tax
38 Board is a party shall be void or voidable by reason of this act, but
39 shall continue in full force and effect, with the State Board of
40 Equalization assuming all of the rights, obligations, and duties of

1 the Franchise Tax Board. That assumption by the State Board of
2 Equalization shall not in any way affect the rights of the parties to
3 the contract, lease, license, or agreement.

4 (b) No contract, lease, license, or any other agreement to which
5 the State Board of Equalization or the Employment Development
6 Department is a party shall be void or voidable by reason of this
7 act, but shall continue in full force and effect, with the State Board
8 of Equalization assuming all of the rights, obligations, and duties
9 of the Employment Development Department. That assumption
10 by the State Board of Equalization shall not in any way affect the
11 rights of the parties to the contract, lease, license, or agreement.

12 (c) No contract, lease, license, or any other agreement to which
13 the State Board of Equalization or the Department of Insurance is
14 a party shall be void or voidable by reason of this act, but shall
15 continue in full force and effect, with the State Board of
16 Equalization assuming all of the rights, obligations, and duties of
17 the Department of Insurance. That assumption by the State Board
18 of Equalization shall not in any way affect the rights of the parties
19 to the contract, lease, license, or agreement.

20 SEC. 9. (a) On and after January 1, 2012, the unencumbered
21 balance of all money available for expenditure by the Franchise
22 Tax Board in carrying out any functions transferred to the State
23 Board of Equalization by this act shall be made available for the
24 support and maintenance of the State Board of Equalization. All
25 books, documents, records, and property of the Franchise Tax
26 Board shall be transferred to the board.

27 (b) On and after January 1, 2012, the unencumbered balance of
28 all money available for expenditure by the Employment
29 Development Department in carrying out any functions transferred
30 to the State Board of Equalization by this act shall be made
31 available for the support and maintenance of the State Board of
32 Equalization. All books, documents, records, and property of the
33 Employment Development Department, relative to the tax
34 administrative functions of that department, shall be transferred
35 to the board.

36 (c) On and after January 1, 2012, the unencumbered balance of
37 all money available for expenditure by the Department of Insurance
38 in carrying out any functions transferred to the State Board of
39 Equalization by this act shall be made available for the support
40 and maintenance of the State Board of Equalization. All books,

1 documents, records, and property of the Department of Insurance,
2 relative to the tax administrative functions of that department, shall
3 be transferred to the board.

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